

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 2/9/2021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
-against-	:	18-CR-389 (VEC)
	:	
RANDY BUENO,	:	<u>ORDER</u>
	:	
Defendant.	:	
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VALERIE CAPRONI, United States District Judge:

WHEREAS on October 8, 2020, Mr. Bueno moved for compassionate release pursuant to 18 U.S.C. § 3582(c) (Dkts. 40, 42);

WHEREAS on January 5, 2021, the Government filed an opposition, acknowledging that Mr. Bueno had exhausted his administrative remedies, but opposing Mr. Bueno's motion on the merits (Dkt. 46);

WHEREAS on February 3, 2021, Mr. Bueno filed a reply (Dkt. 51);

WHEREAS, a court may, according to the plain language of the statute, reduce Mr. Bueno's sentence under the rubric of compassionate release if, "after considering the factors set forth in § 3553(a)," it finds that "extraordinary and compelling reasons warrant such a reduction," 18 U.S.C. § 3582(c)(1)(A)(i);

IT IS HEREBY ORDERED THAT: Mr. Bueno's motion for compassionate release is DENIED. Mr. Bueno fails to demonstrate "extraordinary and compelling reasons" warranting a sentence reduction. Mr. Bueno does not suggest that he has any physical ailments or conditions that put him at an increased risk of severe illness or death were he to contract COVID-19. *See* Dkt. 51. Instead, Mr. Bueno argues that his various mental health conditions have been "aggravated by the severe conditions of confinement he has endured throughout the COVID-19

pandemic.” *Id.* at 1, 3. Specifically, Mr. Bueno states that he suffers from bipolar disorder, ADHD, and PTSD, and that the lockdowns imposed as a result of the pandemic have prevented him from receiving necessary medication or mental health treatment. *Id.* at 4, 8. The Court recognizes the adverse impact that the COVID-19 pandemic, as well as the resulting lockdowns and restrictions on mental health programming, has had on inmates suffering from mental illness. *See United States v. Pina*, No. 18-CR-179, 2020 WL 3545514 (S.D.N.Y. June 29, 2020); *United States v. Reyes*, No. 19-CR-66, 2021 WL 22717 (S.D.N.Y. Jan. 4, 2021). Nevertheless, Mr. Bueno’s medical records contain no indication that he has ever complained of, been diagnosed with, or been treated for any mental illness during his time in prison.¹ *See* Gov. Opp., Ex. A. Accordingly, Mr. Bueno has failed to demonstrate that his mental health constitutes an “extraordinary and compelling reason” warranting a sentence reduction.

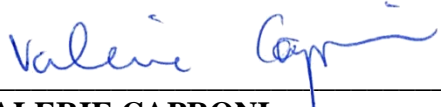
Even assuming Mr. Bueno had demonstrated “extraordinary and compelling reasons” warranting a sentence reduction, the Section 3553(a) factors would not support a sentence reduction. Mr. Bueno’s conduct in prison is particularly concerning to the Court; his disciplinary records indicate that he has been sanctioned on at least seven separate occasions, four of which occurred in 2020 alone. Gov. Opp., Ex. B at 1-3. Such recent and repeated misconduct strongly suggests that Mr. Bueno is not yet prepared to conform his behavior to the rules. Moreover, as a result of his misconduct, Mr. Bueno was expelled from the BOP’s Residential Drug Abuse Program, which the Court recommended Mr. Bueno for, and which would have given him a one-year credit on his sentence had he completed it. *See* Gov. Opp., Ex. A at 55-58.

¹ As of December 29, 2020, Mr. Bueno had no active prescription medications. Gov. Opp., Ex. A at 30. His medical records indicate that he was prescribed naproxen from June 26, 2020 to July 3, 2020 and ibuprofen from December 2, 2020 to December 7, 2020. *Id.* He currently receives various over-the-counter medications including Acetaminophen, Calcium Polycarbophil, Hydrocortisone cream, and Tolnaftate cream. *Id.*

For the foregoing reasons, Defendant's motion for compassionate release is denied.

SO ORDERED.

Date: February 9, 2021
New York, NY



VALERIE CAPRONI
United States District Judge